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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 09/836,525 | 04/17/2001 | Erik C. Houge | HOUGE 20-21-15-27-21 | 6596 |
| 27964 | 7590 | 04/22/2004 | EXAMINER | |
| HITT GAINES P.C. P.O. BOX 832570 RICHARDSON, TX 75083 | | | ALEXANDER, LYLE | |
| | | | ART UNIT | PAPER NUMBER |

1743

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------------------|---|
| Office Action Summary | Application No. 09/836,525 | Applicant(s) HOUGE ET AL.  |
| | Examiner Lyle A Alexander | Art Unit 1743 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-14, 16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benninghoven et al. in view of Harris et al. (995') or Harris et al. (862') further in view of Rosengart et al.

See Benninghoven et al. in view of Harris et al. (995') or Harris et al. (862') in the appropriate paragraphs of the previous Office action.

Benninghoven et al. is silent to the claimed spring cooperatively coupled to the plunger located between the platen and the actuating end.

Rosengart et al. teach in column 5 lines 11+ a syringe having a spring cooperatively coupled to the plunger located between the platen and the actuating end. Rosengart et al. teach the spring brings the plunger upward when not in use and prevents accidental discharge.

It would have been within the skill of the art to modify Benninghoven et al. in view of Harris et al. (995') or Harris et al. (862') further in view of Rosengart et al. to incorporate the taught spring arrangement to gain the above advantages.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benninghoven et al. in view of Harris et al. (995') or Harris et al. (862') further in view of Rosengart et al. and Houge et al.

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See Benninghoven et al. in view of Harris et al. (995') or Harris et al. (862') further in view of Rosengart et al. supra.

Benninghoven et al. are silent to the claimed means to rotate the sample.

Houge et al. teach a mass spectrometer device having a turret system(300) that rotates the sample into the position facing the mass spectrometer.

The court decided In re Venner et al. (120 USPQ 192) that it is within the skill of the art to provide automatic function to replace a manual process.

It would have been within the skill of the art to further modify Benninghoven et al. in view of Houge et al. and automate the sample presentation to the mass by using the turret taught by Houge et al. to gain the advantages associated with automation (e.g. time savings, lower technician cost, reproducibility, 24/7 operation, etc.) or in view of Venner et al. (e.g. automation of a manual process is well known).

Response to Arguments

Applicant's arguments filed 1/16/04 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lyle A Alexander
Primary Examiner
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